

IAP20Resk/SC/ATD 10 APR 2006

Re Section V**V.1 Related Art**

Reference is made to the following documents:

D1: DE 197 49 855 A  
D2: US-A-5 558 370  
D3: DE 199 46 072 A  
D4: US-B-6 443 488  
D5: DE 199 16 805 A  
D6: DE 101 26 699 A

**V.2 Independent Claim 1**

The present application does not satisfy the requirements of the PCT, because the subject matter of Claim 1 is not novel (Article 33 (2) PCT).

D1 describes a

device for ascertaining an occupant position in a vehicle by measuring a belt extension, the device conducting the measurement as a function of time, cf. column 1, lines 39 through 51. As in the present application, a reference position is specified and deviations from this reference position are used for determining the position of the occupant.

Therefore, the subject matter of Claim 1 is not novel. It is also known from D2 through D5, cf. the passages listed in the search report.

**V.3 Dependent Claims**

The dependent claims do not include any features that, in combination with the features of any claim to which they refer, fulfill the requirements of the PCT with regard to novelty and an inventive step (Article 33 (2, 3) PCT).

The features of Claims 3 through 6 are known from D1. D2 and D4 disclose the features of Claims 5 and 6, D3 discloses the features of Claims 3 through 5, and D5 discloses the features of Claim 1. Therefore, the subject matter of these claims is not novel. The features of Claims 2 and 7 are derived from D6. It appears obvious for one to consider the belt force and the extension rate, in order to prevent injuries from a belt force that is too high (Claim 2), and in order to determine the behavior of the occupant more precisely (Claim 7).

At the present time, it is not clear which part of the application could form the basis of a claim that would satisfy the requirements of the PCT with regard to novelty and inventive step.

#### **V.4 Industrial Applicability**

The subject matter of Claims 1 through 7 appears to satisfy the requirements of Article 33 (4) PCT, since it can at least be used in the automotive industry.

#### **V.5 Comments**

1. The subject matter of Claims 1 and 3 through 6 is unclear (Article 6 PCT). Every measuring device conducts a measurement as a function of time, namely, at a certain time. It appears that what was meant was that the device compares different belt extensions and deduces the position of the occupant from this. Claims 3 through 6 do not relate to the device itself, but to its operation (Claims 3, 4) or its coupling to other devices (Claims 5,

6). However, it is not possible to describe the device itself by its operation or such a coupling.

2. Contrary to the requirements of Rule 5.1 a) ii) PCT, neither the relevant related art disclosed in documents D1 and D2, nor these documents, are mentioned in the Specification.